

## RULE 1502

### District Delegation To Local Governments

(a) Purpose

The purpose of Rule 1502 is to establish criteria and procedures to permit the District to delegate implementation of Rule 1501 to local governments, pursuant to California Health and Safety Code Section 40717 (e)(1-3) and (f).

(b) Applicability

- (1) This rule applies to all local governments that request authority to implement District Rule 1501 ; and
- (2) This rule applies to all employers subject to a local government trip reduction ordinance that implements Rule 1501 and has been approved by the Executive Officer.

(c) Definitions

For the purpose of this rule, the definitions in Rule 1501 and the following definitions shall apply:

- (1) CERTIFICATION of a trip reduction ordinance means that a local government has entered into a legally binding agreement with the District to implement Rule 1501 and the District has found the trip reduction ordinance to comply with this rule.
- (2) DECERTIFICATION means that a local government no longer has a legally binding agreement with the District to implement Rule 1501 and the District has found the ordinance, or ordinance implementation plan, or implementation of the trip reduction ordinance to be in noncompliance with Rule 1502.
- (3) EXECUTIVE OFFICER means the Executive Officer of the South Coast Air Quality Management District (District).
- (4) IMPLEMENTATION PLAN means the plan that a local government will use to implement the trip reduction ordinance.

- (5) MEMORANDUM OF UNDERSTANDING (MOU) means a legally binding agreement between the local government and the District that delegates to the local government authority to implement Rule 1501.

(d) Requirements for Certification

In order for the District to delegate authority to any local government the responsibility to implement Rule 1501, all of the following criteria must be met:

- (1) The local government must adopt a trip reduction ordinance that at a minimum complies with all of the following standards and procedures:
- (A) The trip reduction ordinance is applicable to all employers subject to Rule 1501, that are not exempt pursuant to Rule 1502, subdivision (j);
  - (B) The AVR targets in the ordinance are at a minimum, equal to the AVR targets in Rule 1501 or reduce at a minimum, the same number of work trips as Rule 1501 would have if implemented in the jurisdiction;
  - (C) The calculation and definition of AVR and all other definitions pertaining to AVR are the same as Rule 1501, subdivision (m);
  - (D) The window for calculating AVR is the same as Rule 1501;
  - (E) The AVR verification method shall be performed as required in Rule 1501, paragraph (m)(4) and that will provide data consistent with the Rule 1501 and adequately account for AVR;
  - (F) Work trip reduction plans shall be required of employers no less frequently than biennially. If work trip reduction plan updates are required biennially, then an annual analysis of the effectiveness of the work trip reduction plan must be submitted to the local government as required in Rule 1501, subdivisions (j) and (k);
  - (G) Local governments shall have the option of permitting a multi-site trip reduction plan as provided in Rule 1501, subdivision (d). If multi-site plans are permitted, then the following criteria must be met:
    - (i) Aggregating AVR may be permitted at the local government's discretion provided the requirements are as stringent as Rule 1501, paragraph (m)(2);
    - (ii) AVR verification is consistent with Rule 1501, paragraph (m)(4);
    - (iii) Multi-site plans may include work trips saved from worksites that employ fewer than 100 employees at the local government's discretion provided the requirements are as stringent as Rule 1501, subparagraph (e)(2)(D); and

- (iv) On-site coordinators and senior ETCs are permitted at the discretion of the local government, provided the procedure for allowing these is as stringent as Rule 1501, subparagraph (e)(2)(B).
- (H) Local governments shall not have the option of permitting geographic trip reduction plans as described in Rule 1501, subparagraph (d)(1)(C) (demonstration program);
- (I) The local government may choose to require either or both intensive plan review or prototype work trip reduction plans approved by the Executive Officer to satisfy plan review requirements;
- (J) AVR targets shall be provided in the ordinance consistent with those in Rule 1501 or reduce the same amount of work trips as Rule 1501 would have if implemented in the jurisdiction;
- (K) Work trip reduction plan updates shall not be approved for employers that fail to improve their AVRs, unless plan update amendments are submitted that will cause the employer to achieve the AVR targets;
- (L) The ordinance shall identify violations consistent with Rule 1501;
- (M) ETC requirements shall be at least as stringent as Rule 1501, subdivision (n);
- (N) ETC training provider requirements must be at least as stringent as the training provider requirements specified in Rule 1501, subdivision (o);
- (O) Local governments shall have the option of requiring employee involvement in the development of the work trip reduction plan as provided in Rule 1501, subparagraph (e)(1)(L) requirements;
- (P) Local governments shall have the option of requiring employee notification of the provisions of the work trip reduction plan as provided in Rule 1501, subdivision (f);
- (Q) Local governments shall have the option of requiring all third party requests be consistent with or more comprehensive than Rule 1501, subdivision (l);
- (R) Plan review provisions shall be at least as stringent as Rule 1501, subdivision (k); and
- (S) Any work trip reduction plan revisions shall be at least as stringent as Rule 1501, subdivision (h).

- (2) The local government must submit to the Executive Officer an implementation plan which demonstrates adequate resources to administer and enforce the trip reduction ordinance necessary to achieve the same or greater work trip reductions as Rule 1501 would have if implemented in its place. The implementation plan shall at a minimum contain the following:
- (A) Administrative procedures necessary to implement the work trip reduction ordinance;
  - (B) Identification of personnel and financial resources that will be committed to implementing and enforcing the work trip reduction ordinance;
  - (C) Procedures to provide notice to all existing and new employers within their jurisdiction subject to the ordinance of the provisions of the ordinance;
  - (D) Procedures for plan review that are at least as stringent as Rule 1501, subdivision (k). A local government must approve or disapprove a plan in writing within no more than 90 days of receipt of the completed plan from the employer. If a plan disapproved by a local government is not revised by the employer to conform with the specified written provisions within 30 calendar days of receipt of the notification of disapproval, the nonconforming employer shall be deemed to be in violation of the ordinance;
  - (E) Procedures that, at a minimum, monitor the actions of employers to achieve the target AVR shall be performed on an annual basis and include standards that are equivalent to those found in Rule 1501, subdivision (e);
  - (F) Procedures for noticing employees, auditing, and issuing notices of violations that are equivalent to those found in Rule 1501;
  - (G) Procedures for ensuring that ETCs have completed the minimum training requirements as specified in Rule 1501, subdivision (n);
  - (H) Procedures for certifying survey methodologies utilized by employers for calculating AVR must be specified; and
  - (I) Procedures for phasing in employers already subject to Rule 1501.
- (3) The local government must enter into a Memorandum of Understanding (MOU) with the District, approved by the Governing Board, that specifies the conditions of delegation and actions both parties must take under Rule 1502.
- (4) Local governments must submit a report each year on the anniversary date of the approval of the MOU by the District Governing Board, which demonstrates the progress of attaining the work trip reduction goals identified in Rule 1501. The report must contain the following:

- (A) A summary that details the name and location of employers subject to the ordinance, status of work trip reduction plans, incentives, and other programs in the work trip reduction plan, and the AVR achieved with and without employers with under 100 employees;
- (B) A summary of the worksite locations audited, results of the audit, and percentage of worksites covered by the ordinance that were audited.

(e) Procedures for Certification

In order for the District to delegate authority to any local government the responsibility for implementing Rule 1501 and maintain certification, the following procedures shall apply:

- (1) The local government shall submit the information required in Rule 1502, subdivision (d) to the Executive Officer in draft form for review and comment;
- (2) The Executive Officer shall provide the local government with comments within 90 days;
- (3) The local government shall submit a written request for certification to implement Rule 1501 that meets all of the criteria defined in Rule 1502, subdivision (d) to the Executive Officer;
- (4) The Executive Officer shall make a determination, in writing, whether the local government's request complies with Rule 1502, subdivision (d) within 90 days;
- (5) If the Executive Officer determines that the local government request for delegation of authority to implement Rule 1501 complies with Rule 1502 subdivision (d), the proposed MOU will be submitted to District Governing Board for approval. Upon approval of the MOU, the local government will be deemed certified to implement Rule 1501 on the date the District Governing Board approves the MOU. If the Executive Officer determines that the request for delegation of authority to implement Rule 1501 does not comply, then the Executive Officer shall disapprove the request for delegation of authority;
- (6) Any amendments affecting the stringency of an approved trip reduction ordinance must either receive written approval by the District Governing Board prior to implementation by the local government or, if an amendment is not so approved, the Executive Officer shall initiate decertification procedures pursuant to Rule 1502, subdivision (i);

- (7) In the event of amendments to Rule 1501, the District shall advise, in writing, all local governments with approved trip reduction ordinances, of the nature of the amendments, and indicate modifications necessary to maintain the ordinance's certified status. These modifications must be incorporated into the ordinance within 6 months of the effective date of the approved amendments to maintain certification; and
- (8) Any changes to the approved implementation plan requires prior approval by the Executive Officer or the Executive Officer shall initiate decertification procedures pursuant to Rule 1502, subdivision (i).

(f) **Performance Reviews**

- (1) The Executive Officer may inspect and review all records related to implementation of the local government ordinance to ensure that requirements and procedures pursuant to Rule 1502, subdivisions (d) and (e) are met;
- (2) The Executive Officer may inspect employers subject to a local government ordinance for compliance with the ordinance at anytime;
- (3) The Executive Officer may require changes in the implementation plan to ensure adequate implementation of Rule 1501 as a result of the audit; and
- (4) The Executive Officer may enforce any violation of the local government ordinance as violations of this Rule under subdivision (h) of this Rule pursuant to Health and Safety Code, Sections 42400-42403.

(g) **Recordkeeping Requirements**

To ensure uniformity and validity in making performance comparisons and evaluating the effectiveness of employer work trip reduction plans, the following recordkeeping requirements shall be met:

- (1) Materials, forms, and records of work trip reduction plans and implementation plans used by local governments must be prepared in consultation with the Executive Officer;
- (2) All records pertaining to and including work trip reduction plans submitted to local governments by employers for the purpose of demonstrating attainment of AVR goals and all records pertaining to the local government implementation plan must be available for a period of four years for District audit.

(h) Violations

It shall be a violation of this subdivision for any employer that is subject to a local government ordinance developed pursuant this rule to violate any provisions of the local government ordinance. Each violation of the local government ordinance shall be a separate offense. The Executive Officer may enforce such violations pursuant to authority granted in California Health and Safety Code Sections 42400-42403.

(i) Criteria and Procedures for Decertification

- (1) If a local government takes any of the following actions, then the Executive Officer shall begin decertification procedures:
  - (A) Amends the work trip reduction ordinance so that it no longer complies with Rule 1502;
  - (B) Does not administer or enforce the work trip reduction ordinance consistent with the approved implementation plan; or
  - (C) Violates a provision of the MOU.
- (2) If the Executive Officer determines that a local government has taken any action described in subdivision (i)(1), then the Executive Officer shall give the local government written notice describing each deficiency. Within 30 days of receiving such notice, the local government shall respond in writing to the Executive Officer and describe what steps it will take to rectify the deficiencies. Within 30 days from receiving the local government's written response, the Executive Officer may either decertify the local government's program by sending written notice to the local government or provide the local government 90 days to institute changes if the Executive Officer determines the violation can be rectified by such changes. If the local government is granted 90 days to comply, then the Executive Officer will audit the local government program within six months. At that time, if it is determined that the local government is not in compliance, then the Executive Officer will decertify the local government program. Within 30 days after receipt of any decertification, the local government shall send written notice to each employer subject to its ordinance, which would otherwise be subject directly to Rule 1501, notifying the employer that they are no longer subject to the ordinance and that they have 90 days to submit a trip reduction plan to the Executive Officer pursuant to Rule 1501.

(j) Exemptions

- (1) Any federal, state, or other public agency that is not subject to a local government ordinance developed pursuant to this Rule shall continue be subject to Rule 1501;

- (2) Multi-site employers may be exempt from a local government trip reduction ordinance at that local government's discretion. Multi-site employers exempt from the local government ordinance shall remain subject to the District's Rule 1501; and
- (3) The local government's work trip reduction plan shall continue to be subject to Rule 1501. The local government's work trip reduction plan and annual analysis shall be submitted to the Executive Officer pursuant to Rule 1501 whether or not the local government is certified to implement Rule 1501 pursuant to this rule.

(k) **Effective Date**

On and after the date of adoption of this rule, all provisions of this rule shall apply at any time a city or county seeks approval from the District to implement Rule 1501 and at such time the District delegates authority to a city or county to implement a rule or ordinance in lieu of Rule 1501.

[SIP: Submitted as Adopted 2/12/93 on 5/13/93.]